

ID: CCA-911857-08

Number: **200913035**

Office:

Release Date: 3/27/2009

UILC: 6233.02-00

From:

Sent: Thu 9/11/2008 8:57 AM

To:

Cc:

Subject: RE: DE is not TEFRA partnership

It is subject to TEFRA under section 6233(b) (even though no partnership exists) because it filed a partnership return and because the small partnership exception does not apply (assuming the LLC was listed as a partner). Under Rev. Rul. 2004-88 the DE is a "pass-thru" partner which makes TEFRA automatically apply.

You are right that there is no partnership under section 761 and 6231(a) because you can't have a partnership with yourself. But Treas. Reg. 301.6233-1(b) makes TEFRA apply to determine that no partnership entity exists.